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July 11, 2005

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JUL 11 2005

Federal Communications Commission  
Office of Secretary

**VIA HAND DELIVERY**

Mr. Marlene H. Dortch, Esq.  
Secretary  
Federal Communications Commission  
Portals II - 12th Street Lobby  
Filing Counter - TW-A325  
445 12th Street, SW  
Washington, D.C. 20554

**Re: Reply Comments  
MB Docket No. 05-98  
RM-11187, 11252, 11253  
(Wheatland, Gillette, Lusk, Moorcroft, Pine Haven,  
Rock River and Upton, Wyoming and Edgemont, Custer,  
Murdo, Wall and Ellsworth AFB, South Dakota)**

Dear Ms. Dortch:

Transmitted herewith, on behalf of Keyhole Broadcasting, LLC and Mount Rushmore Broadcasting, Inc., is an original and four (4) copies of their Reply Comments in the above-referenced rule making proceeding. Please contact undersigned counsel should the Commission have any questions with respect to this filing.

Sincerely,



Lee J. Peltzman  
Counsel for  
KEYHOLE BROADCASTING, LLC and  
MOUNT RUSHMORE BROADCASTING, INC.

Enclosure

Before The  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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JUL 11 2005

Federal Communications Commission  
Office of Secretary

In the Matter of )  
 )  
Amendment of Section 73.202(b) )  
Table of Allotments )  
FM Broadcast Stations )  
(Wheatland, Gillette, Lusk, Moorcroft, )  
Pine Haven, Rock River and Upton, Wyoming )  
and Edgemont, Custer, Murdo, Wall and )  
Ellsworth AFB, South Dakota )

MB Docket No. 05-98  
RM-11187, 11252, 11253

To: Office of the Secretary  
Attn: Assistant Chief, Audio Division  
Media Bureau

REPLY COMMENTS

Keyhole Broadcasting, LLC ("Keyhole"), licensee of Station KXXL(FM), Gillette, Wyoming and Mount Rushmore Broadcasting, Inc. ("Rushmore"), licensee of Station KAWK(FM), Custer, South Dakota (together, the "Joint Parties"), by their counsel, hereby submit Reply Comments in response to the Commission *Public Notice*, Report No. 2717, released June 24, 2005. The *Public Notice* accepted for filing the Joint Parties' counterproposal to the *Notice of Proposed Rule Making*, DA 05-652, released March 14, 2005, as well as the counterproposal filed by Kona Coast Radio, LLC ("Kona"). The Joint Parties propose to simplify the proceeding by offering a "Universal Solution", which would eliminate the conflicts between their own counterproposal and Kona's counterproposal and the initial rule making proposal offered by Mitchell Beranek ("Beranek"). To the extent required, any alternate channel substitutions can be introduced into this proceeding after the deadline for filing counterproposals as long as they do not involve a new community. See *Pinewood, South Carolina*, 5 FCC Rcd

7609, 7611 (1990) (“After the counterproposal deadline, we believe it appropriate for a party in a proceeding to suggest alternative channels which may lead to a resolution with respect to the communities already at issue in the proceeding.”)

At present, there is a conflict between Kona’s proposed substitution of Channel 299C in place of Channel 242C at Lusk, Wyoming. The Joint Parties propose the substitution of Channel 299C in place of Channel 288C at Wall, South Dakota and the substitution of Channel 298A in place of Channel 289A at Wheatland, Wyoming. To eliminate these conflicts, the Joint Parties propose the substitution of Channel 295C at Wall, South Dakota with a site modification 24.42 kilometers southeast of the current reference point<sup>1</sup> and the substitution of Channel 253A at Wheatland, Wyoming with a site modification 9.12 kilometers west of the current reference point<sup>2</sup>. The allotment of Channel 295C at Wall and Channel 253A at Wheatland are fully spaced to all other stations, allotments and authorizations and provide city grade coverage to 100 percent of the communities. *See* Engineering Statement in Support of Reply Comments. There presently also exists a conflict between the Joint Parties’ counterproposal and the initial rule making proposal filed by Beranek. Beranek proposes the addition of Channel 298A at Wheatland, Wyoming as an additional Wheatland channel, while the Joint Parties propose the substitution of Channel 298A in place of the existing vacant allotment Channel 289A at Wheatland, Wyoming. To resolve this conflict, the Joint Parties propose as part of their Universal Solution the addition of Channel 247A at Wheatland, Wyoming. Channel 247A at the site requested by Beranek is fully spaced to all other stations, allotments and authorizations and the proposed city grade contour for Channel 247A from his proposed site provides city grade coverage to 100 percent of the community of Wheatland.

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<sup>1</sup> The coordinates for Channel 295C at Wall, South Dakota are N43-52-48, W101-57-38.

<sup>2</sup> The coordinates for Channel 253A at Wheatland, Wyoming are N42-02-57, W105-03-44.

The Joint Parties' counterproposal is a vastly superior proposal to that of Kona Coast or Beranek. The Joint Parties' counterproposal would create a first local service at Edgemont, South Dakota as well as at Ellsworth AFB. The Kona counterproposal would create no new service while the initial rule making proposal filed by Beranek would propose the addition of only a fifth local service to a single community (Wheatland). Nonetheless, in the event the Commission deems all three proposals to be in the public interest, adoption of the Joint Parties' Universal Solution would achieve the goals of all the parties.<sup>3</sup> The Universal Solution represents a more efficient use of the spectrum than that offered in the *Notice of Proposed Rule Making*, Kona Coast's counterproposal or Beranek's proposal. The Commission has a long history of favoring multiple allotments over single ones. See e.g. *Stuart and Boone, Iowa*, 5 FCC Rcd 4537 (1990); *Williston and Micanopy, Florida*, 50 RR 2d 1425 (1982).

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<sup>3</sup> In the event the Commission determines that the Kona counterproposal is not acceptable, as an alternative, a Universal Solution may still be achieved by adding Channel 247A at Wheatland, Wyoming at the requested site of Beranek (which would remove the conflict between the Joint Parties' counterproposal and Beranek's initial rule making proposal), while substituting Channel 298A in place of existing vacant allotment Channel 289A at Wheatland.

Accordingly, for reasons stated above, the Commission should promptly adopt a Report and Order implementing the Universal Solution as proposed herein.

Respectfully submitted,

KEYHOLE BROADCASTING, LLC

MOUNT RUSHMORE BROADCASTING, INC.

By: 

\_\_\_\_\_  
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Their Attorney  
Shainis & Peltzman, Chartered  
1850 M Street  
Suite 240  
Washington, DC 20036

Dated: July 11, 2005



**ENGINEERING STATEMENT**

**IN SUPPORT OF**

**REPLY COMMENTS**

**MM DOCKET 05-98, RM-11187**

**Keyhole Broadcasting, LLC  
Mount Rushmore Broadcasting, Inc.**

**Prepared by:**

**Kevin Terry  
Spanish Peaks Broadcasting, Inc.  
3046 E Dimple Dell Cir  
Sandy, UT 84092**

**July 7, 2005**

## **ENGINEERING STATEMENT**

**In Support of  
Reply Comments  
MB Docket 05-98  
Wheatland, WY**

Keyhole Broadcasting, LLC  
Mount Rushmore Broadcasting, Inc.

### **REPLY COMMENTS ENGINEERING STATEMENT**

Keyhole Broadcasting, LLC ("Keyhole"), licensee of Station KXXL(FM), Gillette, WY, and Mount Rushmore Broadcasting, Inc. ("Rushmore"), licensee of KAWK (FM) Custer, SD, (together, the "Joint Parties") hereby offer the instant reply comments in support of their counterproposal to the *Notice of Proposed Rule Making*, DA 05-652 (rel. March 14, 2005) ("*NPRM*") in the above-captioned proceeding. The counterproposal is mutually exclusive to MB Docket 05-98, which proposes the allocation of channel 298A at Wheatland, WY, as that community's fifth local service<sup>1</sup>.

In a separate Counterproposal dated May 5, 2005, Kona Coast Radio, LLC ("Kona") proposed that Channel 247A should be allotted at Wheatland instead of Channel 298A, that Kona's station KVAN (FM) Rock River, WY, should be switched from Channel 240A to Channel 242C1, and that Channel 299C should be substituted for Channel 242C at Lusk, WY.

Kona's Counterproposal is mutually exclusive with the Joint Parties' Counterproposal at two locations. Kona's channel substitution of Channel 299C in place of 242C at Lusk, WY, is mutually exclusive with the Joint Parties' request to substitute Channel 299C at Wall, SD, and channel 298A at Wheatland, WY.

While the Joint Parties do not support or oppose Kona's Counterproposal, they wish to offer the following "Universal Solution" to eliminate the conflicts between its Counterproposal and Kona's Counterproposal. The Joint Parties also note the continued expression of interest to add a fifth local service at Wheatland by Mitchell Beranek, the "Petitioner" in this matter.

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<sup>1</sup> In addition to the three FM services already assigned to Wheatland, WY, AM station KYCN is also licensed to Wheatland.

Although the Joint Parties believe that their Counterproposal is preferable to both Kona's Counterproposal and the Petitioner's original Proposal, as it creates two first local services under Priority 3 of the Commission's allotment priorities, the following Universal Solution can be implemented to achieve the goals of Kona, the Petitioner, and the Joint Parties in the event that the Commission deems Kona's Counterproposal and the Petitioner's Proposal to also be in the public interest.

### **Universal Solution**

#### **Conflict #1**

To eliminate the conflict between Kona's proposed substitution of Channel 299C in place of Channel 242C at Lusk, WY, and the Joint Parties proposed substitution of Channel 299C in place of Channel 288C at Wall, SD, the Joint Parties hereby propose the substitution of Channel 295C at Wall, SD, with a site modification 24.42 kilometers southeast of the current reference coordinates N43-52-48, W101-57-38. Exhibit E, Figure 1 is an allocation study showing the spacings to other stations if Channel 295C is allocated to Wall, SD, at this location. As shown in the study, Channel 295C at Wall is fully spaced to all other stations, allotments, and authorizations. Exhibit E, Figure 2 shows the proposed city-grade contour for channel 295C from the proposed site. The city-grade contour easily covers 100% of Wall.

#### **Conflict #2**

To eliminate the conflict between Kona's proposed substitution of Channel 299C in place of Channel 242C at Lusk, WY, and the Joint Parties proposed substitution of Channel 298A in place of Channel 289A at Wheatland, WY, the Joint Parties hereby propose the substitution of Channel 253A at Wheatland, WY, with a site modification 9.12 kilometers west of the current reference coordinates N42-02-57, W105-03-44. Exhibit E, Figure 3 is an allocation study showing the spacings to other stations if Channel 253A is allocated to Wheatland, WY, at this location. As shown in the study, Channel 253A at Wheatland is fully spaced to all other stations, allotments, and authorizations. Exhibit E, Figure 4 shows the proposed city-grade contour for channel 253A from the proposed site. The city-grade contour easily covers 100% of Wheatland.



### **Conflict #3**

To eliminate the conflict between the Petitioner's proposed addition of Channel 298A at Wheatland, WY, and the Joint Parties proposed substitution of Channel 298A in place of the existing vacant allotment of Channel 289A at Wheatland, WY, the Joint Parties hereby propose the addition of Channel 247A at Wheatland, WY, at the Petitioner's proposed site. Exhibit E, Figure 5 is an allocation study showing the spacings to other stations if Channel 247A is allocated to Wheatland, WY, at this location. As shown in the study, Channel 247A at Wheatland is fully spaced to all other stations, allotments, and authorizations. Exhibit E, Figure 6 shows the proposed city-grade contour for channel 247A from the proposed site. The citygrade contour easily covers 100% of Wheatland.

The Joint Parties' counterproposal creates first local service at Edgemont, SD (population 867) and first local service at Ellsworth Air Force Base ("Ellsworth AFB"), SD (population 4165), and is preferred as it creates two first local services under Priority 3 of the Commission's allotment priorities at Edgemont and Ellsworth AFB. Kona's Counterproposal creates no new services while the Petitioner's proposed addition of 298A at Wheatland would only provide a fifth local service under Priority 4 to a single community. Nonetheless, if the Commission deems all three proposals to be in the public interest, the aforementioned Universal Solution can be implemented to achieve the goals of all parties involved in the Proceeding. The following is a summary of the changes proposed to the FM Table of Allotments if this Universal Solution is adopted (listed alphabetically by state):

<b>City</b>	<b>Current</b>	<b>Proposed</b>
Custer, SD	286C1	---- <sup>2</sup>
Edgemont, SD	---	289C1
Murdo, SD	285C0 (app)	283C0 (app)
Ellsworth AFB, SD	---	285C
Wall, SD	288C	295C
Gillette, WY	245C1, 264C1, 280C2	245C1, 260C2, 264C1
Lusk, WY	242C	299C
Moorcroft, WY	228A	291A
Pine Haven, WY	260A	256A
Rock River, WY	240A	242C 1
Upton, WY	283A, 290C1	228A, 283C1
Wheatland, WY	269A, 289A, 293C1	269A, 293C1, 253A, 247A

<sup>2</sup> Custer will continue to be well served by KFCR AM.

## **Conclusion**

The Joint Parties' counterproposal has demonstrated that it is in technical compliance with the present Commission Rules concerning such actions. The counterproposal produces two new first local services at Edgemont and Ellsworth AFB, SD, combined population of 5,032. The counterproposal creates a net increase in new 60-dBu service of 26,475 square kilometers, and it provides a new 60 dBu service to a net 65,283 persons.

While the Joint Parties take no position with respect to the acceptability of Kona's Counterproposal and the Petitioner's original proposal, the aforementioned Universal Solution has been offered to eliminate the conflicts between the Joint Parties' Counterproposal, Kona's Counterproposal, and the Petitioner's original Proposal. In the event that the Commission deems both Counterproposals as well as the original Proposal to be in the public interest, it may order this Universal Solution be implemented. In the event that the Commission determines Kona's Counterproposal to be either defective or not in the public interest, the Joint Parties request that the Commission implement the Joint Parties' Counterproposal which they offered on May 5, 2005. In such an event, the conflict between the Petitioner's proposed addition of Channel 298A at Wheatland, WY, and the Joint Parties' proposed substitution of Channel 298A in place of the existing vacant allotment of Channel 289A at Wheatland, WY, may still be eliminated, as noted above, by adding Channel 298A as proposed as a substitution by the Joint Parties and adding Channel 247A at Wheatland, WY, at the Petitioner's proposed site.

## **Statement of the Consultant**

The instant engineering portion of these Reply Comments was prepared for the Joint Parties and supports a counterproposal to MM Docket 05-98, RM-11187. It was developed by Spanish Peaks Broadcasting, Inc. ("SPB") and may not be used for purposes other than submission to the Commission by the Joint Parties. It may not be reproduced in its entirety, or in part, by anyone (other than from the Commission) without the written consent of SPB.

The information in this application is compiled from the most recent Commission and outside data. SPB is not responsible for errors resulting from incorrect data or unpublished rule and procedure changes.

ADD Channel 295C Wall, SD  
Allocation Study

REFERENCE

43 52 48 N  
101 57 38 W

CLASS = C

Current Spacings

DISPLAY DATES

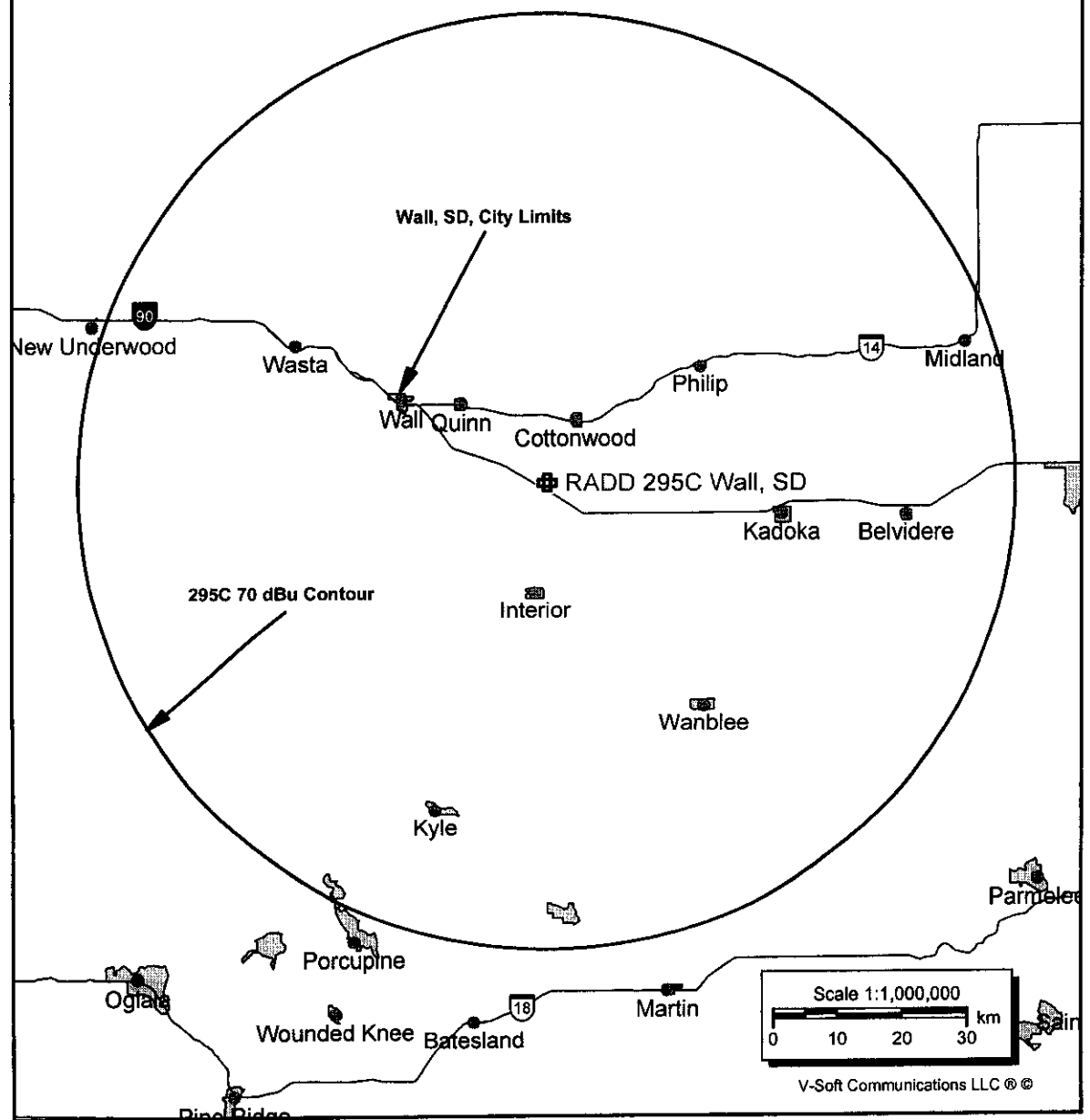
DATA 06-22-05  
SEARCH 07-07-05

----- Channel 295 - 106.9 MHz -----

Call	Channel	Location	Dist	Azi	FCC	Margin
KZLK	LIC 292C1	Rapid City	SD 105.61	281.9	105.0	0.61
AP295	APP 295C2	Minatare	NE 252.29	210.1	249.0	3.29
RS295	RSV 295C2	Minatare	NE 262.32	209.2	249.0	13.32
AP295	APP 295A	Minatare	NE 262.32	209.2	226.0	36.32
AL295	VAC 295A	Minatare	NE 262.32	209.2	226.0	36.32
KSLT	LIC 297C	Spearfish	SD 158.07	289.1	105.0	53.07

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ADD 295C  
Wall, SD  
70 dBu Contour Map



ADD Channel 253A Wheatland, WY  
Allocation Study

REFERENCE

42 02 57 N  
105 03 44 W

CLASS = A

Current Spacings

DISPLAY DATES

DATA 06-22-05

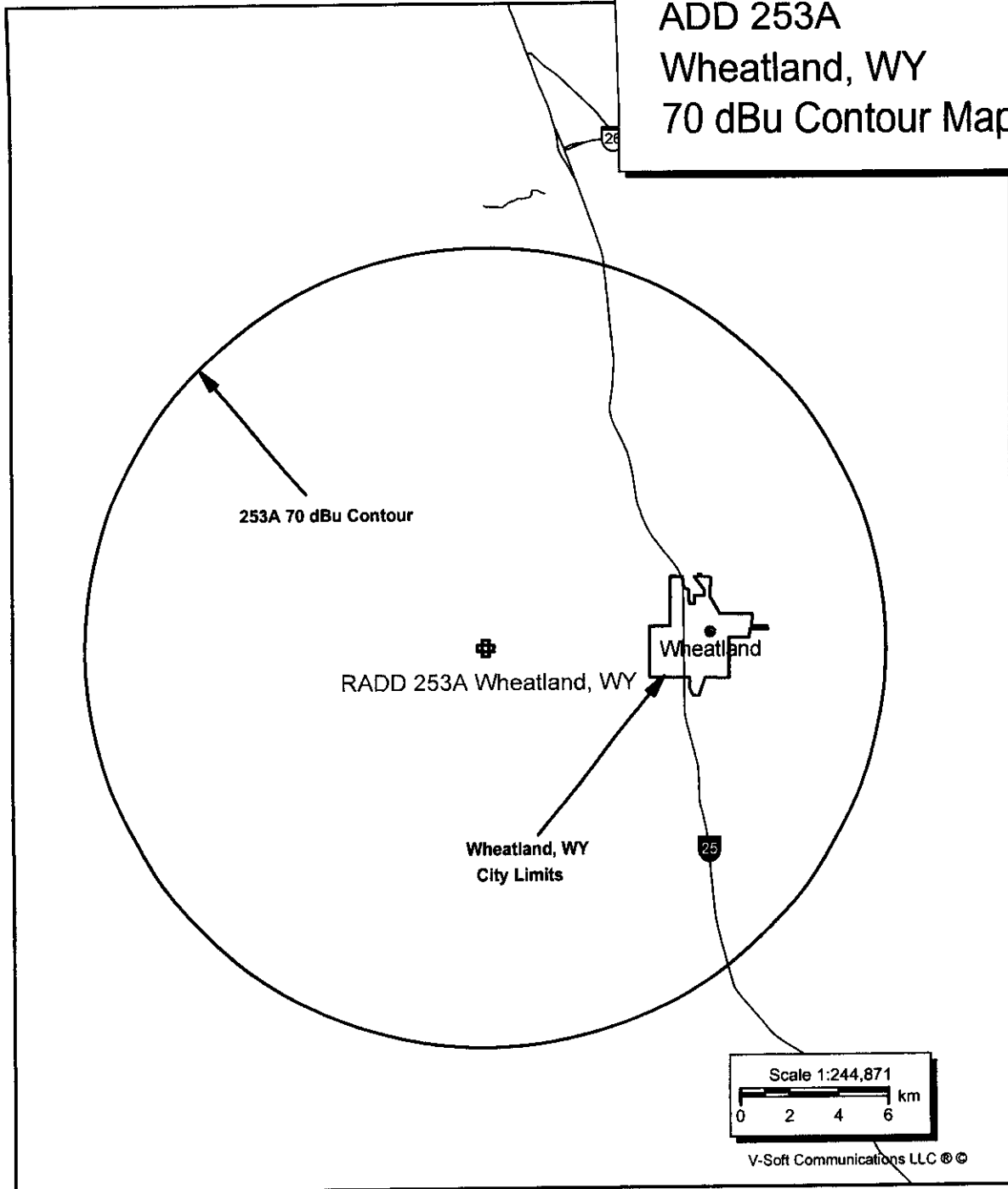
SEARCH 07-07-05

----- Channel 253 - 98.5 MHz -----

Call	Channel	Location	Dist	Azi	FCC	Margin
KERM	LIC 252A	Torrington	WY 71.55	94.6	72.0	-0.45
AL255	VAC 255C1	Manville	WY 88.97	24.1	75.0	13.97
KHIH.C	CP -N 254A	Laramie	WY 88.23	201.7	72.0	16.23
VA254	VAC 254A	Laramie	WY 92.75	208.1	72.0	20.75
KQLF	LIC 250C1	Cheyenne	WY 105.48	177.5	75.0	30.48
KYGOFM	LIC 253C	Denver	CO 265.90	187.8	226.0	39.90
KGRK.C	CP 252A	Glenrock	WY 112.28	324.0	72.0	40.28
KSIDFM	LIC 254C1	Sidney	NE 182.99	121.1	133.0	49.99
KQLF.C	CP 250C1	Cheyenne	WY 128.65	184.9	75.0	53.65

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**ADD 253A**  
**Wheatland, WY**  
**70 dBu Contour Map**



# ADD Channel 247A Wheatland, WY Allocation Study

## REFERENCE

42 04 28 N

104 56 51 W

CLASS = A

Current Spacings

## DISPLAY DATES

DATA 06-22-05

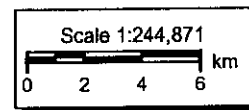
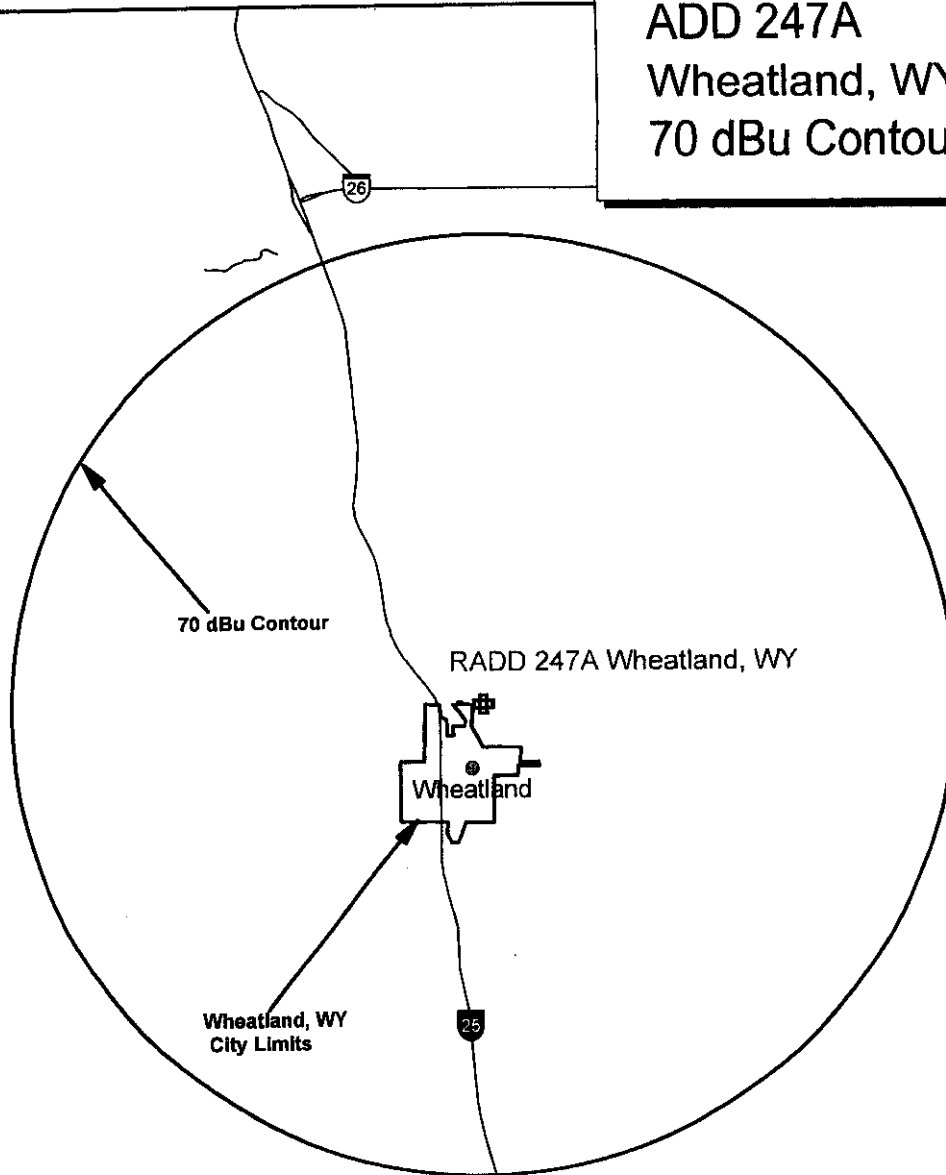
SEARCH 07-07-05

----- Channel 247 - 97.3 MHz -----

Call	Channel	Location		Dist	Azi	FCC	Margin
KBCOFM	LIC-D 247C	Boulder	CO	241.74	187.0	226.0	15.74
KQSK	LIC 248C1	Chadron	NE	164.20	67.0	133.0	31.20
KQLF	LIC 250C1	Cheyenne	WY	108.30	182.6	75.0	33.30
KCMI	LIC 245C1	Terrytown	NE	112.77	111.2	75.0	37.77
KIMX.C	CP -N 244C2	Laramie	WY	96.68	205.4	55.0	41.68
KIMX	LIC-N 244C2	Laramie	WY	96.93	205.4	55.0	41.93
AL248	VAC 248A	Centennial	WY	121.34	226.4	72.0	49.34
KQLF.C	CP 250C1	Cheyenne	WY	132.59	189.0	75.0	57.59

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**ADD 247A**  
**Wheatland, WY**  
**70 dBu Contour Map**



V-Soft Communications LLC ® ©



## CERTIFICATE OF SERVICE

I certify that on this 11<sup>th</sup> day of July, 2005, I caused to be sent by U.S. mail, postage prepaid, copies of the foregoing Counterproposal to the following:

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\*Via Hand Delivery